

REMARKS

Claims 1-21 are pending in the present application. In the Office Action of January 18, 2006, the drawings were objected to for not including "fig. 36", as referred to in ¶ [0087] of the specification. The Office Action also objected to claims 9 and 21 because they were separated by claims interceding between the claims from which 9 and 21 depend but that do not also depend from such claims. Additionally, the Office Action rejected claim 3 under 35 U.S.C. § 112, second paragraph, as being vague and indefinite. Also, the Office Action rejected claims 1, 7, 10-12, 15, and 17-21 under 35 U.S.C. § 102(b) as being anticipated by Evans (U.S. Patent No. 5,924,074). Finally, claims 2-6, 8, and 9 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Evans in view of Abbo (Published U.S. Patent Application No. 2003/0195774).

Objections to the Drawings

The Office Action correctly identified a discrepancy between ¶ [0087] of the specification, which referred to "Fig. 36", and the drawings that did not include a drawing identified as "36". As indicated above, Applicant has amended ¶ [0087] to correctly refer to the sub tables of "Fig. 4", rather than "Fig. 36". Hence, the objection to the drawings has been traversed.

Objections to the Claims

The Office Action objected to claims 9 and 21 because they were separated from the claims on which they depend by interceding claims that do not also depend from such claims. With respect to claim 9, Applicant has amended claims 8 and 9 to correct this error. Similarly, with respect to claim 21, Applicant has amended claims 17 and 21 to correct this error. Accordingly, these objections to the claims should be withdrawn.

Rejections under § 112, second paragraph

The Office Action rejected claim 3 under § 112, second paragraph, for calling for "wherein the methodology wherein the predetermined set...." When addressing claim 3, the Examiner correctly noted that the phrase "wherein the methodology"

was a typographical error. As suggested by the Examiner, Applicant has amended claim 3 to remove this phrase and now believes that claim 3 is proper.

Rejections under § 102(b)

The Office Action rejected claims 1, 7, 10-12, 15, and 17-21 under § 102(b) as being anticipated by Evans. With respect to claim 1, the Office Action stated that Evans teaches accepting “input designating a methodology producing a subset of diagnoses codes” in column 11, lines 40-52 and presenting “a navigation menu a representation of the subset of the diagnosis codes generated using the selected methodology” in column 6, lines 40-55 and column 11, 30-40. However, the cited sections do not teach or suggest inputting a **methodology** to produce a subset of **diagnoses** codes or presenting a navigation menu of the **diagnosis codes** generated using the selected **methodology**. To the contrary, Evans, in the very sections cited in the Office Action, merely teaches that a **diagnosis** can be entered by inputting a **body system** from a list thereof. This is very different from and unrelated to the express purposes of the claimed invention.

In particular, as stated in the present application, “The invention provides several alternative methodologies by which the physician may zero in on specific diagnosis codes with minimum effort” so that “diagnostic code information may be captured in a manner that is neither disruptive nor disadvantageous to the individual practitioner.” Specification, ¶ [0008]. To this end, the present invention is specifically designed for aiding physicians and clinicians to “improve their medical practice through observing their patient’s response to treatments and conferring with their colleagues about the experiences of their colleague’s patients.” Specification, ¶ [0003]. This process, called “outcome-based” medicine, is facilitated and expanded by the present invention by providing a system for record keeping that “tracks diagnoses and outcomes for different treatments so that many physicians can share this data” because, without the present invention, physicians and clinicians fail to accurately record and correlate **methodology** and **diagnoses**. *Id.* In particular, as explained in the specification,

Unfortunately it is not a simple matter to collect such records. Physicians are under great time pressure, and stopping to enter data is disruptive to their workflow. Further, entering accurate information

requires the physician to choose among some 15,000 to 26,000 possible diagnosis codes and thousands of drug treatments and treatment regimes. This is an impractical burden.

Physicians and their staff have no practical, meaningful incentives to code accurately. They have financial incentives to select diagnosis codes that are likely to win easy reimbursement from payers, and they have very vague threats of regulatory persecution if their codes do not match their office visit patient records. Consequently, at present many physicians delegate the task of diagnosis coding to medical assistants who lack formal training in this area. Over time, medical assistants tend to create and select from a small pool of diagnosis codes that, in their experience, have resulted in hassle-free reimbursement from payers.

Accordingly, most outcome-based systems collect relatively coarse and inaccurate diagnosis data and rely heavily on prescription data from which diagnoses are deduced. These systems are particularly prone to inaccuracy for prescribed drugs that are used for treatment in multiple different diagnoses. Inaccurate diagnosis information can obscure important conclusions about treatment efficacy.

Specification, ¶ [0005] to ¶ [0007].

Therefore, though not appreciated in the Office Action, the present invention, which includes inputting a *methodology* to present a navigation menu of a subset of *diagnoses* codes, is different from the cited prior art system for entering a *body system* in order to generate a list of *diagnoses* from which to select. That is, the present invention facilitates tracking diagnoses and outcomes for different treatments, of which Evans is incapable. Rather, Evans simply teaches a system and method for electronic data recording of medical information, but does not contemplate the claimed system for facilitating and encouraging "outcome-based" medicine.

For at least these reasons, claim 1 is patentably distinct from the art of record. Accordingly, claims 2-21 are in condition for allowance at least pursuant to the chain of dependency.

Rejections under § 103(a)

The Office Action rejected claims 2-6, 8, and 9 under § 103(a) as being unpatentable over Evans in view of Abbo. Applicant respectfully disagrees with respect to the art as applied, but in light of claims 2-6, 8, and 9 depending from what

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are believed otherwise allowable claims, Applicant does not believe additional remarks are necessary.

Conclusion

Therefore, for at least the reasons addressed above, Applicant respectfully asserts that all objections and rejections presented in the Office Action have been overcome. Accordingly, the application is in condition for allowance and timely issuance of a Notice of Allowance is respectfully requested. As always, the Examiner is invited to contact the undersigned at the telephone number appearing below if such would advance the prosecution of this application. Applicant does not believe that any additional fees are necessary; however, please deduct any fee arising from this or any other communication from deposit account number 17-0055.

Respectfully submitted,

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